



1 APPEARANCES: (Cont'd.)

2 FOR THE DEFENDANT:

RICHARD W. WESTLING, ESQ.  
Epstein, Becker & Green, P.C.  
1227 25th Street, N.W.  
Washington, D.C. 20037

4 OFFICIAL COURT REPORTER:

ANNELEIESE J. THOMSON, RDR, CRR  
U.S. District Court, Fifth Floor  
401 Courthouse Square  
Alexandria, VA 22314  
(703) 299-8595

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1 (Bench conference on the record.)

2 THE COURT: The court security officer has told me that  
3 one juror would like to know if she could go take her son to  
4 college, I think it is -- high school.

5 THE LAW CLERK: Boarding school.

6 THE COURT: Boarding school.

7 And she is the fourth alternate, I believe, [REDACTED], and  
8 I think she's the third or fourth alternate. I'm going to have  
9 the court security officer tell her that I'll let her know by  
10 Wednesday or before. The likelihood that we will excuse her is  
11 very high, and it needs to be done as soon as possible so that she  
12 can make plans either to go with her husband or get an airfare or  
13 whatever, because it's very unlikely that she'll be required to  
14 deliberate.

15 Any problem with that?

16 MR. ANDRES: No problem with the government, Your Honor,  
17 the one caveat being that we have to resolve the sealed motion  
18 first, and I suppose there's at least the possibility that that  
19 could lead to certain jurors being excused. We obviously don't  
20 anticipate that, but you understand the issue.

21 THE COURT: All right. It could, yes. Yes, I think  
22 you're correct to raise that, but she isn't one of those -- oh,  
23 unless --

24 MR. ANDRES: She would replace one that would be excused  
25 if that's where this ends up. I'm not suggesting we're asking for

1 that.

2 THE COURT: I see. Well, I do plan to resolve that  
3 motion today --

4 MR. ANDRES: Great.

5 THE COURT: -- if I'm able to.

6 I think I will be able to.

7 Any suggestions?

8 MR. WESTLING: No, Your Honor. We have no objection. I  
9 remember this was the woman, I think, who had to take her son to  
10 the IMG Academy, if I recall.

11 THE COURT: That's exactly right.

12 MR. WESTLING: So we knew that one might be an issue.  
13 So the sooner we can excuse her, I think the better for her. But  
14 obviously, I agree with Mr. Andres that we've got to get through  
15 our other issues first.

16 THE COURT: All right. Let's get this witness --

17 MR. ANDRES: Can I just say one other thing?

18 THE COURT: Yes.

19 MR. ANDRES: With respect to the Rule 29 motions, the  
20 government also filed a motion today that doesn't ask for any  
21 specific --

22 THE COURT: I don't believe I've seen that one yet, but  
23 go ahead.

24 MR. ANDRES: It doesn't ask for any specific relief, but  
25 it addresses the Steve Calk conspiracy issues with The Federal

1 Savings Bank and whether that could be a fraud notwithstanding his  
2 ownership. So the only reason I mention that is prior to the Rule  
3 29 motions, we would like Your Honor to have a chance to review  
4 that.

5 THE COURT: Have you -- is there a Rule 29 motion  
6 you-all have filed?

7 MR. WESTLING: We have not filed it yet, Your Honor. We  
8 are working.

9 MR. ANDRES: I just --

10 THE COURT: All right. Well, obviously, there's an  
11 issue of materiality, and your position is going to be that it's  
12 material even though he overrode what the other people said.

13 MR. ANDRES: (Nodding head.)

14 THE COURT: And your position, do you know what it is?

15 MR. WESTLING: I suspect to the contrary, Your Honor,  
16 that we don't think it is material and that the count is not  
17 sustained on those grounds.

18 THE COURT: All right. Let's proceed.

19 MR. ANDRES: Thank you, Your Honor.

20 MR. WESTLING: Thank you, Your Honor.

21 (End of bench conference.)

22 CERTIFICATE OF THE REPORTER

23 I certify that the foregoing is a correct excerpt of the  
24 record of proceedings in the above-entitled matter.

25 \_\_\_\_\_  
/s/  
Anneliese J. Thomson